

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

MARIELLE TREY SMITH,

Petitioner,

v.

STEVEN HARPE,

Respondent.

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Case No. CIV-22-1059-D

**ORDER FOR RESPONSE BY OKLAHOMA ATTORNEY GENERAL TO
PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON
IN STATE CUSTODY, PURSUANT TO 28 U.S.C. § 2254**

After examination of the Petition (ECF No. 1) (hereafter "Petition") for Writ of Habeas Corpus presented to the Clerk of this Court,

IT IS ORDERED THAT:

1. The Respondent shall file a response to the allegations of the Petition within thirty (30) days from the date of this order. The response shall indicate:

- (a) Whether the Petitioner has exhausted his state remedies including any post-conviction remedies available to him under the statutes or procedural rules of the State, and including also his right to appeal both from the judgment of conviction and from any adverse judgment or order in the post-conviction proceeding;
- (b) whether the Petition was timely filed under the one-year period of limitations set forth in 28 U.S.C. § 2244;
- (c) whether any claim in the Petition is procedurally barred; and
- (d) provide an analysis of each of said grounds and any cases and supporting documents relied upon by the Respondent in opposition to the same.

2. The response shall also indicate what transcripts (of pretrial, trial, sentencing or post-conviction proceedings) are available, when they can be furnished and also what proceedings have been recorded and not transcribed. There shall be attached to the response such portions of the transcript as the Respondent deems relevant.

3. The Respondent must also file with the response a copy of:

- (a) any brief that the Petitioner submitted in an appellate court contesting the conviction or sentence, or contesting an adverse judgment or order in a post-conviction proceeding;
- (b) any brief that the prosecution submitted in an appellate court relating to the conviction or sentence; and
- (c) the opinions and dispositive orders of the appellate court relating to the conviction or the sentence.

4. In lieu of filing a formal response, the Respondent may, when appropriate, file a motion to dismiss.

5. Petitioner may file a reply brief within thirty (30) days after the filing of Respondent's response. If Respondent files a motion to dismiss, Petitioner must file a response thereto within thirty (30) days from the date the motion was filed. LCvR 7.1(g). Failure to respond to the motion within that time period may result in the motion being deemed confessed.

6. The Clerk is directed to send a copy of the Petition along with a copy of this Order through electronic mail to the Respondent and to the Attorney General of the State of Oklahoma on behalf of the Respondent at the following address:
fhc.docket@oag.ok.gov.

ENTERED on January 5, 2023.



SHON T. ERWIN
UNITED STATES MAGISTRATE JUDGE